

By C. J. [Signature]

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JEFF DAVIS
Real Estate Commissioner

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of:

SHARIF JEMEL DAVIS, aka Sharif Jemel
Banks, Jamal Sean Davis, Sean Corey Banks,
and Sean Corey Davis

Respondent.

Case No. H-36047 LA

OAH No. 2009100406

PROPOSED DECISION

Administrative Law Judge N. Gregory Taylor, Office of Administrative Hearings, State of California, heard this matter in Los Angeles, California on February 10, 2010.

Lisette Garcia, Staff Counsel, represented Joseph Aiu (Complainant), a Deputy Real Estate Commissioner in the Department of Real Estate (Department), State of California.

Sharif Jemel Davis (Respondent) represented himself.

Oral and documentary evidence was received, and the matter argued.

The record was left open for Respondent to file a court order expunging his criminal conviction with time also provided for the Department to respond. On February 22, 2010, Respondent filed an order from the California Superior Court in Riverside County expunging Respondent's 2006 conviction. Attached to the order were three signed Letters of Reference. The order is marked as Respondent's Exhibit B - 1 and admitted in evidence. The attached Letters of Reference (Exhibits B 2, 3, and 4) are admitted in evidence as administrative hearsay.

The case was submitted for decision on March 11, 2010.

FACTUAL FINDINGS

1. Complainant filed the Accusation in this proceeding in his official capacity.

2. Respondent is presently licensed and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code ("Code"), as a real estate broker. Respondent's broker license was originally issued on July 21, 2005. The license will expire on July 20, 2013 unless renewed. (Respondent has not actively used his license since 2008.)

3. On November 7, 2006, in the California Superior Court, County of Riverside, Respondent, upon his guilty plea, was convicted of violating Penal Code sections 273.5, subdivision (a), inflicting corporal injury on his spouse, and 12021, subdivision (c) (1), possession of a firearm within ten years of a conviction of a violation of Penal Code section 243, subdivision (e) (1), both misdemeanors. The court placed Respondent on summary probation for a period of thirty six months upon certain terms and conditions including serving 120 days in the county jail (to be served on consecutive weekends), performing twenty hours of community service, successfully completing a 52 week Domestic Violence Program, and paying certain fines and fees. The court additionally served a criminal protective order on Respondent and ordered him not to possess any firearm or deadly weapon. Respondent has complied with all the terms and conditions imposed by the Court. His probation ended on November 6, 2009. On January 22, 2010 the court granted Respondent's motion to expunge the conviction.

4. Respondent's 2006 criminal conviction resulted from an argument he had with his wife that escalated into a physical altercation. Following the incident, Respondent's wife refused any medical assistance. The gun that Respondent had in his house at the time of the incident was not involved in the altercation. It had been purchased at Respondent's direction by his wife for self protection.

5. In Aggravation – On December 31, 2001, in the California Superior Court, County of San Bernardino, Respondent was convicted of violating Penal Code section 243, subdivision (e) (1), battery against a spouse, a misdemeanor. The court sentenced Respondent to serve five days in the county jail with credit for time served. Respondent complied with the court's orders.

6. Respondent and his wife are now divorced. They have joint custody of their three children ages 8, 3 and 1. Respondent states that as a result of the domestic violence course that he was required to take he has become a changed person. He now is getting along with his wife. He is current in his support payments.

7. Respondent is no longer in real estate although he belongs to the Riverside County Realtors Association. He is presently employed training associates at a call center for a cable television company. He disclosed his criminal convictions to his employer.

8. Respondent has been offered a position with a property management company if his license status permits it.

9. Respondent has completed two years of college majoring in psychology.

10. Respondent regularly attends his church.

11. Respondent submitted three letters of recommendation. They were from an uncle and two friends who have known Respondent for more than ten years. All of them praised Respondent's abilities. One mentioned that he had overcome a lot of adversity and is leading a changed life.

12. Respondent feels that the domestic violence / anger management course he was required to complete by the court in 2006 has changed his life. He feels that he has gained greater sensitivity and had he had such a course earlier he would not have had the problems he has encountered.

LEGAL CONCLUSIONS

1. These proceedings are brought under the provisions of Business and Professions Code section 10100 et seq. and Government Code sections 11500 through 11528.

2. The 2006 crime of which Respondent was convicted set forth in Factual Findings 3, and 4 involves moral turpitude and bears a substantial relationship to the qualifications, functions or duties of a real estate licensee under California Code of Regulations, title 10, chapter 6, section 2910, subdivision (8) in that it involved doing an unlawful act with the threat of doing substantial injury to the person of another.

3. Pursuant to the provisions of Business and Professions Code sections 490 and 10177, subdivision (b), cause exists to suspend or revoke Respondent's broker license and license rights under the Real Estate Law by virtue of his criminal conviction.

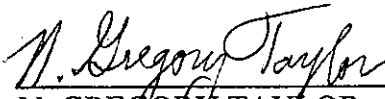
4. The Department has developed criteria for the purpose of evaluating the rehabilitation of a licensee against whom an administrative disciplinary proceeding for revocation or suspension of the license has been initiated on account of a crime committed by the licensee. California Code of Regulations, title 10, chapter 6, section 2912. Two years are required to have passed since Respondent's most recent criminal conviction. In this case, four years have passed. Respondent has satisfied all the conditions imposed by the criminal courts and his 2006 conviction has been expunged. Respondent and his wife are now divorced and they are getting along. He is current in his support of his children. Respondent feels that he has greatly benefited from the domestic violence course he completed. His life has changed. This change is confirmed by one of the persons who submitted a letter in support of Respondent. Respondent's criminal convictions are confined to family matters. Under these circumstances, Respondent has demonstrated sufficient rehabilitation to support a restricted license. Such action is consistent with the protection of the public.

ORDER

All licenses and licensing rights of Respondent Sharif Jemel Davis under the Real Estate Law are revoked; provided, however, a restricted real estate broker license shall be issued to Respondent pursuant to Section 10156.5 of the Business and Professions Code if Respondent makes application therefore and pays to the Department of Real Estate the appropriate fee for the restricted license within 90 days from the effective date of this Decision. The restricted license issued to Respondent shall be subject to all of the provisions of Section 10156.7 of the Business and Professions Code and to the following limitations, conditions and restrictions imposed under authority of Section 10156.6 of that Code:

1. The restricted license issued to Respondent may be suspended prior to hearing by Order of the Real Estate Commissioner in the event of Respondent's conviction or plea of nolo contendere to a crime which is substantially related to Respondent's fitness or capacity as a real estate licensee.
2. The restricted license issued to Respondent may be suspended prior to hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that Respondent has violated provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner or conditions attaching to the restricted license.
3. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license nor for the removal of any of the conditions, limitations or restrictions of a restricted license until two years have elapsed from the effective date of this Decision.
4. Respondent shall, within nine months from the effective date of this Decision, present evidence satisfactory to the Real Estate Commissioner that Respondent has, since the most recent issuance of an original or renewal real estate license, taken and successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate license. If Respondent fails to satisfy this condition, the Commissioner may order the suspension of the restricted license until the Respondent presents such evidence. The Commissioner shall afford Respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

Dated: April 5, 2010.



N. GREGORY TAYLOR
Administrative Law Judge
Office of Administrative Hearings

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FILED
JUNE 12, 2009
DEPARTMENT OF REAL ESTATE

By CA

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

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11 In the Matter of the Accusation of) NO. H-36047 LA
12)
13 SHARIF JEMEL DAVIS,) A C C U S A T I O N
14)
Respondent.)

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16 The Complainant, Joseph Aiu, a Deputy Real Estate
17 Commissioner of the State of California, for cause of Accusation
18 against SHARIF JEMEL DAVIS, aka Sharif Jemel Banks, Jamal Sean
19 Davis, Sean Corey Banks, Sean Corey Davis ("Respondent") is
20 informed and alleges as follows:

21 I

22 The Complainant, Joseph Aiu, a Deputy Real Estate
23 Commissioner of the State of California, makes this Accusation
24 in his official capacity.

25 II

26 At all times herein mentioned, Respondent was and
27 still is licensed and/or has license rights under the Real
28 Estate Law (Part 1 of Division 4 of the California Business and

1 Professions Code ("Code") as a real estate broker. Respondent
2 was first licensed as a real estate broker on July 21, 2005.

3 III

4 On or about November 7, 2006, in the Superior Court of
5 California, Riverside County, in Case No. RIF130580, Respondent
6 was convicted of violating Penal Code Section 273.5(a) (inflict
7 corporal injury on spouse) and Penal Code Section 12021(c)(1)
8 (possession of firearm within ten years of a conviction of
9 violation of Penal Code section 243(e)(1)), misdemeanors. The
10 underlying facts of said crime involve moral turpitude and bear
11 a substantial relationship to the qualifications, functions or
12 duties of a real estate licensee under Section 2910, Title 10,
13 Chapter 6, California Code of Regulations.

14 IV

15 The crime of which Respondent was convicted, as
16 alleged in Paragraph III above, constitutes cause under Code
17 Sections 490 and 10177(b) for the suspension or revocation of
18 all licenses and license rights of Respondent under the Real
19 Estate Law.

20 IN AGGRAVATION

21 V

22 In aggravation, on or about December 31, 2001, in the
23 Municipal Court of San Bernardino County, State of California,
24 in Case No. MWV070419, Respondent was convicted of violating
25 Penal Code Section 243(e)(1) (battery against spouse), a
26 misdemeanor.

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WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action against all licenses and/or license rights of Respondent, SHARIF JEMEL DAVIS, under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) and for such other and further relief as may be proper under other applicable provisions of law.

Dated at San Diego, California

this 10 day of June, 2009.

JOSEPH AIU
Deputy Real Estate Commissioner

cc: Sharif Jemel Davis
Joseph Aiu
Sacto.